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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,895	11/27/2002	Andrew Philip Brown	71522-3	5296
20915	7590	12/27/2004	EXAMINER	
<b>MCGARRY BAIR PC</b> 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503				BHATTACHARYA, SAM
		ART UNIT		PAPER NUMBER
		2687		

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/065,895	BROWN, ANDREW PHILIP	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sam Bhattacharya	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 13 August 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Johansson et al. (U.S. 5,983,100).

As to claims 1, 11 and 12, Johansson et al. shows a wireless headset-based communication arrangement, comprising: a first subscriber unit 250-2; a wireless headset 220 associated with said first subscriber unit to form a wireless communication apparatus; a detector within the wireless communication apparatus to detect a spatial proximity of at least one second subscriber unit or second wireless headset; and in response to said detection, said wireless headset associated with said first subscriber unit is adapted to communicate directly with said at least one second subscriber unit 240. See FIGS. 3 and 10, col. 6, line 60 – col. 7, line 10 and col. 11, lines 40-49.

As to claim 2, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein said direct communication is a short-range wireless communication. See col. 6, lines 35-39.

As to claim 3, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein said at least one second subscriber

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unit or second wireless headset is a plurality of subscriber units or wireless headsets such that group communications are implemented between said wireless headset associated with said first subscriber unit and the plurality of subscriber units or wireless headsets. See FIG. 12 and col. 7, lines 11-21.

As to claim 4, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 3, wherein said wireless headset associated with said first subscriber unit provides broadcast communication to any of the plurality of subscriber units or wireless headsets within range of said wireless headset associated with said first subscriber unit.

As to claim 5, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein an identification is associated with the at least one second subscriber unit and the first subscriber unit uses the identification to communicate with the at least one second subscriber unit or its associated headset. See col. 8, lines 47-56.

As to claim 6, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein said detector is inherently contained within said first subscriber unit or said wireless headset, since the unit or headset makes the determination of whether communications are within a certain range.

As to claim 7, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein said detector detects a presence of a proximal at least one second subscriber unit or associated wireless headset when within the order

of ten meters of said detector. See col. 6, lines 30-39. A home or office environment is within the range of ten meters.

As to claim 8, the Johansson et al. reference discloses the wireless headset-based communication arrangement according to Claim 1, wherein said first subscriber unit is one of: a cellular telephone, a mobile or portable radio, a personal digital assistant, a computer. The local interface module is a computer.

As to claim 9, the Johansson et al. reference discloses a wireless headset 220 adapted to operate in the wireless headset-based communication arrangement of Claim 1.

As to claim 10, the Johansson et al. reference discloses a communication device 240 adapted to operate in the wireless headset-based communication arrangement of Claim 1.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

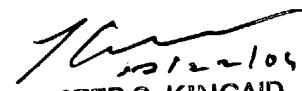
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Bhattacharya whose telephone number is (703) 605-1171. The examiner can normally be reached on weekdays 8:30 a.m. to 6:00 p.m., first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on (703) 305-3016. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sb



LESTER G. KINCAID  
PRIMARY EXAMINER